

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 4/22/2022
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TYRONE MASSEY,	:	
	:	
Plaintiff(s),	:	1:20-cv-08633-GHW
	:	
-v -	:	<u>ORDER</u>
	:	
CAPTAIN HERNANDEZ; CITY OF NEW	:	
YORK,	:	
	:	
Defendant(s).	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

On March 8, 2022, the Court issued an order on the docket scheduling a status conference for April 20, 2022 at 10:00 a.m. Dkt. No. 32. The Clerk of Court mailed the Court's order scheduling the April 20, 2022 conference to Plaintiff's address listed on the docket. On April 20, 2022, the Court, the court reporter, and counsel for Defendants appeared on the conference line at the scheduled time, but Plaintiff did not. Counsel for Defendants advised the Court that Plaintiff had been produced at the designated time but refused to join the conference. Given Plaintiff's failure to appear, the Court adjourned the conference.

The Court will hold a teleconference on **May 10, 2022 at 2:00 p.m.** The parties are directed to use the Court's designated conference line at (888) 557-8511, and enter Access Code 747-0200, followed by the pound (#) key.

IT IS FURTHER ORDERED that the Warden or other official in charge of the Anna M. Kross Center produce Tyrone H. Massey, ID No. 8952000522, on May 10, 2022, no later than 2:00 p.m., to a suitable location within the Anna M. Kross Center that is equipped with a telephone, for the purpose of participating by telephone in a conference with the Court and defense counsel. If this time and date presents an inconvenience, the Warden or the Warden's designee should promptly

inform Chambers emailing the Court at [woodsnydchambers@nysd.uscourts.gov](mailto:woodsnydchambers@nysd.uscourts.gov).

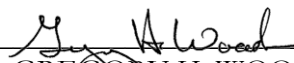
Defense counsel is directed to (1) send this order to the Warden immediately; (2) contact the correctional facility to confirm its ability to connect the plaintiff to the conferences at the conference number listed below at the date and time of the conferences; and (3) to the extent that the correctional facility is unable to dial into the conference line directly, to make other arrangements for the plaintiff to connect to the conferences at the date and time listed above.

The Court's March 8, 2022 order directed the parties to appear for a status conference on April 20, 2022. Plaintiff failed to comply with that order when he did not appear for the conference. The Court reminds Plaintiff that he must comply with the Court's orders. In addition, the Court understands from defense counsel's March 22, 2022 letter, Dkt. No. 31, that Plaintiff has not served initial disclosures or responded to Defendants' discovery requests. The Court has twice extended discovery deadlines in this case. *See* Dkt. Nos. 29, 32. Continued failure to comply with the Court's orders or to participate actively in the litigation process may result in dismissal of this case under Federal Rule of Civil Procedure 41(b). Rule 41(b) provides, in relevant part, that "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Fed. R. Civ. P. 41(b). "Although the text of Fed. R. Civ. P. 41(b) expressly addresses only the case in which a defendant moves for dismissal of an action, it is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff's case *sua sponte* for failure to prosecute." *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

The Clerk of Court is directed to mail a copy of this order by first-class mail to Plaintiff.

SO ORDERED.

Dated: April 22, 2022  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge